

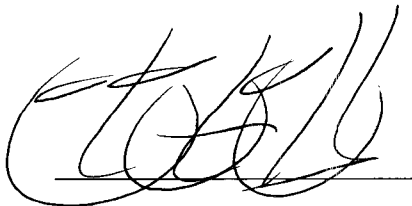
NOT FOR PUBLICATION

(3) Where a defendant was sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 944(o).

18 U.S.C. § 3582(c). *See also United States v. Watson*, No. 05-208, 2011 U.S. Dist. LEXIS 93112, at *6 (E.D. Pa. Aug. 19, 2011) (“In 18 U.S.C. § 3582(c), Congress provided that a court may not modify a term of imprisonment once it has been imposed except in three limited circumstances set forth in the statute”). Federal Rule of Criminal Procedure 35, in turn, permits a district court (a) to reduce a sentence within 14 days of the judgment if it resulted from “clear error” and (b) to reduce a sentence, at the request of the Government, if the defendant has provided “substantial assistance in investigating or prosecuting another person.” Fed. R. Crim. P. 35.

The Court finds that none of the three scenarios is applicable here: the request for modification was lodged by the Defendant, not the Director of the Bureau of Prisons; there is no statute expressly permitting resentencing; more than 14 days have passed since Defendant was sentenced, and the Court did not make a “clear error;” the Government did not move for a “substantial assistance” reduction; and the Sentencing Commission has not lowered the sentencing range under which Defendant was sentenced. It follows that the Court had no statutory authority to modify Defendant’s sentence. The Court’s order modifying the sentence, ECF No. 42, is hereby vacated.

DATE: 15 December 2015

A handwritten signature in black ink, appearing to read 'W. H. Walls', written over a horizontal line.

William H. Walls
Senior United States District Court Judge